

REMARKS/ARGUMENTS

In the Office Action mailed February 19, 2009, claims 1 – 7 and 9 were rejected. In response, Applicant has amended claim 1 and added new claims 10 – 17. Applicant hereby requests reconsideration of the application in view of the amendments and the below-provided remarks.

Claim Rejections under 35 U.S.C. 101

Claims 1 – 7 and 9 were rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. In particular, the Office action states that “while the instant claim(s) recite a series of steps or acts to be performed, the claim(s) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.”

As determined by the Federal Circuit in *In re Bilski*, 545 F.3d 943, 88 USPQ2d 1385 (Fed. Cir. 2008) (en banc) (77 PTCJ 4, 11/7/08), “A claimed process is surely patent-eligible under § 101 if: (1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing.” In response to the outstanding rejection, Applicant has amended claim 1 to tie the process of filtering an image to a particular apparatus. In particular, the claim has been amended to tie the process to a sensor, a buffer, and a program memory. Support for the amendment is found in Applicant’s specification at, for example, page 1, line 7 (sensor), page 5, lines 7 – 10 (buffer), and page 2, lines 26 and 29 (program memory).

Because amended claim 1 is tied to a particular apparatus, Applicant asserts that amended claim 1 falls within one of the statutory categories of invention. Accordingly, Applicant respectfully requests that the rejections of claims 1 – 7 and 9 under 35 U.S.C. 101 be withdrawn.

New Claims 10 – 17

New claims 10 – 17 are similar to claims 1 – 7 and 9, respectively. However, new claims 10 – 17 are directed to a program memory instead of a method. Support for new

claims 10 – 17 is found in Applicant's specification at, for example, page 2, lines 26 and 29 (program memory). Because new claims 10 – 17 recite a particular apparatus, Applicant asserts that new claims 10 – 17 fall within one of the statutory categories of invention. Accordingly, Applicant respectfully asserts that new claims 10 – 17 constitute patentable subject matter under 35 U.S.C. 101.

CONCLUSION

Applicant respectfully requests reconsideration of the claims in view of the amendments and the remarks made herein. A notice of allowance is earnestly solicited.

At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account **50-4019** pursuant to 37 C.F.R. 1.25. Additionally, please charge any fees to Deposit Account **50-4019** under 37 C.F.R. 1.16, 1.17, 1.19, 1.20 and 1.21.

Respectfully submitted,

/mark a. wilson/

Date: May 15, 2009

Mark A. Wilson
Reg. No. 43,994

Wilson & Ham
PMB: 348
2530 Berryessa Road
San Jose, CA 95132
Phone: (925) 249-1300
Fax: (925) 249-0111